

IV-A agency with evidence of failure to cooperate if:

(1) The recipient refuses to sign a repayment agreement; or

(2) The recipient enters into a repayment agreement but subsequently fails to make a payment under the terms of the agreement.

(f) *Subsequent notification to the IV-A agency as required.* If the IV-D agency has referred a case to the IV-A agency with evidence of failure to cooperate for either of the reasons in paragraph (e) of this section the IV-D agency must notify the IV-A agency when either of the following changes in circumstances occurs:

(1) The recipient who refused to enter into a repayment agreement consents to do so and signs the agreement; or

(2) The recipient who defaulted on an agreement begins making regularly scheduled payments according to the agreement. Under this paragraph, a regularly scheduled payment is a payment made in the current month for the amount specified in the initial repayment agreement between the IV-D agency and the recipient. The resumption of regularly scheduled payments cannot be interpreted to mean payment of amounts which were not paid during the period of default, nor amounts which could be categorized as balloon payments or which would be due as a result of an acceleration clause. To recover amounts due from any period of default, the IV-D agency must extend the duration of the repayment agreement.

[47 FR 43956, Oct. 5, 1982, as amended at 50 FR 34696, Aug. 27, 1985]

**§ 303.100 Procedures for wage or income withholding.**

(a) *General withholding requirements.*

(1) The State must ensure that in the case of each absent parent against whom a support order is or has been issued or modified in the State, and is being enforced under the State plan, so much of his or her wages must be withheld, in accordance with this section, as is necessary to comply with the order.

(2) In addition to the amount to be withheld to pay the current month's obligation, the amount to be withheld

must include an amount to be applied toward liquidation of overdue support.

(3) The total amount to be withheld under paragraphs (a)(1), (a)(2) and, if applicable, (f)(1)(iii) of this section may not exceed the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(4) In the case of a support order being enforced under the State plan, the withholding must occur without the need for any amendment to the support order involved or any other action by the court or entity that issued it other than that required or permitted under this section.

(5) If there is more than one notice for withholding against a single absent parent, the State must allocate amounts available for withholding giving priority to current support up to the limits imposed under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)). The State must establish procedures for allocation of support among families, but in no case shall the allocation result in a withholding for one of the support obligations not being implemented.

(6) The withholding must be carried out in full compliance with all procedural due process requirements of the State.

(7) The State must have procedures for promptly terminating withholding:

(i) In all cases, when there is no longer a current order for support and all arrearages have been satisfied; or,

(ii) At State option, when the absent parent requests termination and withholding has not been terminated previously and subsequently initiated, and the absent parent meets the conditions for an alternative arrangement set forth under paragraph (b)(3) of this section.

(8) The State must have procedures for promptly refunding to absent parents amounts which have been improperly withheld.

(9) The State may extend its withholding to include withholding from forms of income other than wages.

(10) Support orders issued or modified in IV-D cases must include a provision requiring the absent parent to keep the IV-D agency informed of the name and address of his or her current employer,

whether the absent parent has access to health insurance coverage at reasonable cost and, if so, the health insurance policy information.

(b) *Immediate withholding on IV-D cases.* (1) In the case of a support order being enforced under this part that is issued or modified on or after November 1, 1990, the wages of an absent parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order, except that such wages shall not be subject to withholding under this paragraph in any case where:

(i) Either the absent or custodial parent demonstrates, and the court or administrative authority finds, that there is good cause not to require immediate withholding; or (ii) A written agreement is reached between the absent and custodial parent, and, at State option, the State in IV-D cases in which there is an assignment of support rights to the State, which provides for an alternative arrangement.

(2) For the purposes of this paragraph, any finding that there is good cause not to require immediate withholding must be based on at least:

(i) A written determination that, and explanation by the court or administrative authority of why, implementing immediate wage withholding would not be in the best interests of the child; and

(ii) Proof of timely payment of previously ordered support in cases involving the modification of support orders.

(3) For purposes of this paragraph, “written agreement” means a written alternative arrangement signed by both the custodial and absent parent, and, at State option, by the State in IV-D cases in which there is an assignment of support rights to the State, and reviewed and entered in the record by the court or administrative authority.

(c) *Initiated withholding in IV-D cases.* In the case of wages not subject to immediate withholding under paragraph (b) of this section, including cases subject to a finding of good cause or to a written agreement:

(1) The wages or the absent parent shall become subject to the withholding on the date on which the payments

which the absent parent has failed to make under a support order are at least equal to the support payable for one month or, if earlier, and without regard to whether there is an arrearage, the earliest of:

(i) The date on which the absent parent requests that withholding begin;

(ii) The date on which the custodial parent requests that withholding begin, if the State determines, in accordance with such procedures and standards as it may establish, that the request should be approved; or

(iii) Such earlier date as State law or procedure may provide.

(2) The State must send the advance notice required under paragraph (d) of this section to the absent parent within 15 calendar days of the appropriate date under paragraph (c)(1) of this section if the absent parent’s address is known on that date, or, if the absent parent’s address is not known on that date, within 15 calendar days of locating the absent parent.

(3) The only basis for contesting a withholding under this paragraph is a mistake of fact, which for purposes of this paragraph means an error in the amount of current or overdue support or in the identity of the alleged absent parent.

(d) *Advance notice to the absent parent in cases of initiated withholding.* (1) On the date specified in paragraph (c)(2) of this section, the State must send advance notice to the absent parent regarding the initiated withholding. The notice must inform the absent parent:

(i) Of the amount of overdue support that is owed, if any, and the amount of wages that will be withheld;

(ii) That the provision for withholding applies to any current or subsequent employer or period of employment;

(iii) Of the procedures available for contesting the withholding and that the only basis for contesting the withholding is a mistake of fact;

(iv) Of the period within which the absent parent must contact the State in order to contest the withholding and that failure to contact the State within the specified time limit will result in the State notifying the employer to begin withholding; and

(v) Of the actions the State will take if the individual contests the withholding, including the procedures established under paragraph (e) of this section.

(2)(i) The requirement for advance notice to the absent parent under paragraph (d)(1) of this section and for State procedures when the absent parent contests the withholding in response to the advance notice under paragraph (e) of this section do not apply in the case of any State which had a withholding system in effect on August 16, 1984 if the system provided on that date, and continues to provide, any other procedures as may be necessary to meet the procedural due process requirements of State law.

(ii) Any State in which paragraph (d)(2)(i) of this section applies must meet all other requirements of this section and must send notice to the employer under paragraph (f) of this section within 15 calendar days of the appropriate date specified in paragraph (c)(1) of this section if the employer's address is known on that date, or, if the employer's address is not known on that date, within 15 calendar days of locating the employer's address.

(e) *State procedures when the absent parent contests initiated withholding in response to the advance notice.* The State must establish procedures for use when an absent parent contests the withholding. Within 45 calendar days of sending advance notice to the absent parent under paragraph (d) of this section, the State must:

(1) Provide the absent parent an opportunity to present his or her case to the State;

(2) Determine if the withholding shall occur based on an evaluation of the facts, including the absent parent's statement of his or her case;

(3) Notify the absent parent whether or not the withholding is to occur and, if it is to occur, include in the notice the time frames within which the withholding will begin and the information given to the employer in the notice required under paragraph (f) of this section; and

(4) If withholding is to occur, send the notice required under paragraph (f) of this section.

(f) *Notice to the employer for immediate and initiated withholding.* (1) To initiate withholding, the State must send the absent parent's employer a notice which includes the following:

(i) The amount to be withheld from the absent parent's wages, and a statement that the amount actually withheld for support and other purposes, including the fee specified under paragraph (f)(1)(iii) of this section, may not be in excess of the maximum amounts permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b));

(ii) That the employer must send the amount to the State (or to such other individual or entity as the State may direct) within 10 working days of the date the absent parent is paid, and must report to the State (or to such other individual or entity as the State may direct) the date on which the amount was withheld from the absent parent's wages;

(iii) That, in addition to the amount withheld for support, the employer may deduct a fee established by the State for administrative costs incurred for each withholding, if the State permits a fee to be deducted;

(iv) That the withholding is binding upon the employer until further notice by the State;

(v) That the employer is subject to a fine to be determined under State law for discharging an absent parent from employment, refusing to employ, or taking disciplinary action against any absent parent because of the withholding;

(vi) That, if the employer fails to withhold wages in accordance with the provisions of the notice, the employer is liable for the accumulated amount the employer should have withheld from the absent parent's wages;

(vii) That the withholding under this section shall have priority over any other legal process under State law against the same wages;

(viii) That the employer may combine withheld amounts from absent parents' wages in a single payment to each appropriate agency requesting withholding and separately identify the portion of the single payment which is attributable to each individual absent parent;

(ix) That the employer must implement withholding no later than the first pay period that occurs after 14 working days following the date the notice was mailed; and

(x) That the employer must notify the State promptly when the absent parent terminates employment and provide the absent parent's last known address and the name and address of the absent parent's new employer, if known.

(2) In the case of an immediate wage withholding under paragraph (b) of this section, the State must issue the notice to the employer specified in paragraph (f)(1) of this section within 15 calendar days of the date the support order is entered if the employer's address is known on that date, or, if the address is unknown on that date, within 15 calendar days of locating the employer's address.

(3) In the case of initiated withholding, if the absent parent fails to contact the State to contest withholding within the period specified in the advance notice in accordance with the requirements of paragraph (d)(1)(iv) of this section, the State must send the notice to the employer required under paragraph (f)(1) of this section within 15 calendar days of the end of the contact period if the employer's address is known on that date, or, if the address is unknown on that date, within 15 calendar days of locating the employer's address.

(4) If the absent parent changes employment within the State when a withholding is in effect, the State must notify the absent parent's new employer, in accordance with the requirements of paragraph (f)(1) of this section, that the withholding is binding on the new employer.

(g) *Administration of withholding.* (1) The State must designate a public agency to administer withholding in accordance with procedures specified by the State for keeping adequate records to document, track, and monitor support payments.

(2)(i) The State may designate public or private entities to administer withholding on a State or local basis under the supervision of the State withholding agency if the entity or entities are publicly accountable and follow the

procedures specified by the State; and (ii) the State may designate only one entity to administer withholding in each jurisdiction.

(3) Effective October 1, 1997, the State must be capable of receiving withheld amounts and accounting information which are electronically transmitted by the employer to the State.

(4) Amounts withheld must be distributed in accordance with section 457 of the Act and §§ 302.32, 302.51 and 302.52 of this chapter.

(5) The State must reduce its IV-D expenditures by any interest earned by the State's designee on withheld amounts.

(h) *Interstate withholding.* (1) The State law must provide for procedures to extend the State's withholding system so that the system will include withholding from income or wages derived within the State in cases where the applicable support orders were issued in other States. A State may require registration of orders from other States for purposes of enforcement through withholding only if registration is for the sole purpose of obtaining jurisdiction for enforcement of the order; does not confer jurisdiction on the court or agency for any other purpose (such as modification of the underlying or original support order or resolution of custody or visitation disputes); and does not delay implementation of withholding beyond the timeframes established in paragraph (h)(5) of this section.

(2) The State law must require employers to comply with a withholding notice issued by the State.

(3) Within 20 calendar days of a determination that withholding is required in a particular case, and, if appropriate, receipt of any information necessary to carry out withholding, the initiating State must notify the IV-D agency of the State in which the absent parent is employed to implement interstate withholding. The notice must contain all information necessary to carry out the withholding, including the amount requested to be withheld, a copy of the support order and a statement of arrearages, if appropriate. If necessary, the State where the support order is entered must provide the information necessary to carry out the

withholding within 30 calendar days of receipt of a request for information by the initiating State.

(4) The State in which the absent parent is employed must implement withholding in accordance with paragraph (h)(5) of this section upon receipt of the notice required in paragraph (h)(3) of this section.

(5) The State in which the absent parent is employed must:

(i) Within 15 calendar days of location of the absent parent and his or her employer, send notice to the absent parent, if appropriate, in accordance with the requirements of paragraph (d) of this section;

(ii) Provide the absent parent with an opportunity to contest the withholding, if appropriate, in accordance with paragraph (e) of this section;

(iii) Send notice to the employer in accordance with the requirements of paragraph (f) of this section; and

(iv) Notify the State in which the custodial parent is receiving services when the absent parent is no longer employed in the State and provide the name and address of the absent parent and new employer, if known.

(6) The withholding must be carried out in full compliance with all procedural due process requirements of the State in which the absent parent is employed.

(7) Except with respect to when withholding must be implemented which is controlled by the State where the support order was entered, the law and procedures of the State in which the absent parent is employed shall apply.

(i) *Provision for withholding in all child support orders.* Child support orders issued or modified in the State between October 1, 1985, and January 1, 1994, or modified on or after January 1, 1994, must have a provision for withholding of wages, in order to ensure that withholding as a means of support is available if arrearages occur without the necessity of filing an application for IV-D services. This requirement does not alter the requirement governing all IV-D cases in paragraph (a)(4) of this section that enforcement under the State plan must proceed without the need for a withholding provision in the order.

[57 FR 30682, July 10, 1992, as amended at 61 FR 67241, Dec. 20, 1996]

### § 303.101 Expedited processes.

(a) *Definition.* *Expedited processes* means administrative or expedited judicial processes or both which increase effectiveness and meet processing times specified in paragraph (b)(2) of this section.

(b) *Basic requirement.* (1) The State must have in effect and use, in interstate and intrastate cases, expedited processes as specified under this section to establish paternity and to establish and enforce support orders.

(2) Under expedited processes:

(i) In IV-D cases needing support order establishment, regardless of whether paternity has been established, action to establish support orders must be completed from the date of service of process to the time of disposition within the following timeframes: (A) 75 percent in 6 months; and (B) 90 percent in 12 months.

(ii) In IV-D cases where a support order has been established, actions to enforce the support order must be taken within the timeframes specified in §§ 303.6(c)(2) and 303.100;

(iii) For purposes of the timeframe at § 303.101(b)(2)(i), in cases where the IV-D agency uses long-arm jurisdiction and disposition occurs within 12 months of service of process on the alleged father or noncustodial parent, the case may be counted as a success within the 6 month tier of the timeframe, regardless of when disposition occurs in the 12 month period following service of process.

(iv) Disposition, as used in paragraphs (b)(2)(i) and (iii) of this section, means the date on which a support order is officially established and/or recorded or the action is dismissed.

(c) *Safeguards.* Under expedited processes:

(1) Paternities and orders established by means other than full judicial process must have the same force and effect under State law as paternities and orders established by full judicial process within the State;

(2) The due process rights of the parties involved must be protected;

(3) The parties must be provided a copy of the voluntary acknowledgment of paternity, paternity determination, and/or support order;